

PROTECTING THE BEST INTERESTS OF CHILDREN

Judge Eugene A. Lucci

Lake County Common Pleas Court

The 2001 Law Day theme is “Protecting the Best Interests of our Children.” The notion of special protection for children began to come into American law in the late 19th century. Prior to that time, there were no children’s rights in family law, no protections against abuse, no juvenile justice system, no laws to make it a crime to prey upon children, and no laws to enhance penalties for those who target children.

Today, we have laws protecting children from abuse and neglect, giving children certain rights in schools and procedural safeguards in juvenile court, laws and rights pertaining to children in divorce and custody situations, laws that make it a crime to target children between 13 and 16 years of age, and laws that make it a more serious crime to target children under 13 years of age.

The Ohio legislature recently passed a law – that became effective on March 22, 2001 – making it a felony for an adult to solicit sex by means of a computer if the other person is under 13, or between 13 and 16 years of age, or is a law enforcement officer posing as a person under 13, or between 13 and 16, and if the offender believes that the other person is under 13, or between 13 and 16 years of age. This law is but one example of laws that are passed for the protection of children, to enable law enforcement and the courts to punish those who target children and to enhance the penalties based upon the age, or believed age, of the intended victim.

Despite all of the laws which are on the books which are designed and intended to protect the best interests of children, children are still victimized and are still targeted for abuse, neglect and crime. The police and courts can only react to situations that are brought to their attention – most often, after the child has been abused, neglected, or targeted for crime. Parents and the immediate family of children are in the best position to recognize a child who is at risk and to prevent the harm coming to the child, or at least to identify the threat while the police and courts can effectively intervene into the matter.

An example is the ability of parents to recognize whether their child is a target for predators on the Internet. Parents are in the best position to recognize the signs that their child might be at risk “on-line,” and to take action if they suspect their child is communicating with a sexual predator. They are in the best position to minimize the chances that an “on-line” exploiter would

victimize their child. Parents should educate themselves to be aware that their children might be prone to be targeted by a cyber-predator if the child spends a large amount of time on-line, especially at night, or if the parents find pornography on the child's computer. The child may be receiving phone calls from adults whom the parents do not know, or the child may be making long distance phone calls to numbers that the parents do not recognize. The child may be receiving mail, gifts, or packages from someone whom the parents do not know. Parents should know how to check the computer to see what activities the child has been engaged in, the sites the child has visited, and the conversations that the child has had in chat rooms. Parents should recognize that sophisticated predators have traded in the "park benches" for Internet chat rooms, and that is one of the easiest ways for stalkers to prey upon their targets and meet with them face-to-face.

Parents can minimize the chances for the exploitation of their children by communicating with their children about the Internet and how predators can exploit children. Parents can keep the computer in a common room rather than in the child's bedroom, and maintain access to the child's on-line account so that the parents can randomly check the e-mail. Parents should know that there are some safeguards and blocking software available, and be able to instruct their child that there is more to the Internet than just chat rooms. Parents certainly should instruct their children never to meet someone face-to-face whom they talked with on-line, or upload pictures of themselves onto the Internet, or give out identifying information about themselves, and never to download pictures from an unknown source. They should also be instructed that whatever they are told on-line may not be true.

If parents suspect that their child has been targeted by an on-line predator, they should call their local law enforcement agency or F.B.I. office to investigate. The officers can use much of the information contained in the child's computer, any caller ID service, and information given by the child. With this information, the law enforcement officers are empowered to assume the identity of the child to continue the contact with the predator so that he can be identified and apprehended. The officers can use the power of subpoenas and court orders to document the offense and to identify the offender.

Despite our ability to pass laws and bring offenders to justice once a crime has been committed, the first line of defense in protecting the best interests of our children lies with their parents, who are in the best position to identify children at risk, to protect their children, and to bring the targeting of their children to the attention of the authorities.